

## General regulatory: Law-Now alerts, tools and latest news

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### Law-Now alerts and other tools

CMS Cameron McKenna [Timeline for reform – dates for key developments including consultation periods and implementation dates](#)

Law Now [“OFT proposes to send private healthcare market to the Competition Commission”](#) (9/12/11)

Law Now [“Freedom of Information Act extended to include FOS, UCAS and ACPO”](#) (9/11/11)

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### Latest news

#### **Topics covered:**

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#### **General reform, covering multiple topics**

BoE: Speech by Paul Tucker: Introductory remarks at the book launch for ‘Investing in

Change: The Reform of Europe’s Financial Markets’ (1 February 2012)

Further to the publication of Paul Tucker’s chapter in the above-mentioned book, text of the above-mentioned speech has been published. He discusses bank capital and liquidity and global plans for resolution regimes. He notes: “the upshot is that withdrawing the safety net from banks will require the other parts of the financial system to be sound, because they will have to stand on their own feet. It is sometimes pointed out that the insurance industry – other than AIG – did not benefit from state support. But, of course, insurance companies holding bank debt were the direct beneficiaries of state support for the banking system. Regulators of insurers – including, in this country, prospectively the Bank of England through the Prudential Regulation Authority – will need to take the changed regime for banks into account. We no more want insurance to be part of a ‘socialised’ financial sector than banking.” (2/02/12)

<http://www.bankofengland.co.uk/publications/speeches/2012/speech544.pdf>

BoE: Banking in a market economy – the international agenda

BoE has published the text of a book chapter by Paul Tucker (described as “taken from ‘Investing in Change’, AFME) in which he discusses, among other matters, macro-prudential reform, shadow banking and securities regulation. (31/01/12)

<http://www.bankofengland.co.uk/publications/speeches/2012/speech543.pdf>

HMT/BoE/FSA: The financial authorities: legal powers in the event of operational disruption

This note outlines certain legal powers available to authorities (and infrastructure providers) in the event of major operational disruption. It covers: specific powers of the HMT/BoE/FSA, infrastructure providers' powers and sets out disruption caused by the October 1986 "hurricane". In addition, it notes the provisions of Part 2 of the Civil Contingencies Act (2004). (30/01/12) [http://www.fsc.gov.uk/section\\_file.asp?objectid=939&object=file&docid=2757](http://www.fsc.gov.uk/section_file.asp?objectid=939&object=file&docid=2757)

HMT: Speech by Mark Hoban (18 January 2012)

Text of Mark Hoban's speech to LSE has been published. He discusses European and UK regulatory reform. He expresses concerns over aspects of MiFID reform; discusses aspects of the Independent Commission on Banking and argues against the financial transaction tax. (19/01/12) [Speech by the Financial Secretary to the Treasury, Mark Hoban MP, to the London Stock Exchange: MiFID - HM Treasury](#)

FSA: Strategic dialogue session with SEC

This short press release notes some issues discussed at today's strategic dialogue session, including regulatory reform, oversight of OTC derivatives trading and clearing, market structure issues including high frequency trading, market surveillance and short selling. (13/10/11) [FSA and SEC hold Strategic Dialogue Meeting](#)

HMT: Speech by Mark Hoban (11 October 2011)

Text of Mark Hoban's speech to APCIMS follows. Topics include: EU and domestic regulation (including MiFID – he notes "we believe the MiFID execution-only regime has worked well and should be retained. We are pleased that the Commission appears to have moved away from its proposal to abolish the regime, and that non-complex products, for example, shares in companies, can continue to be sold without first having to perform an appropriateness test. Abolition of the execution only regime would have been disproportionate and severely disruptive for businesses across the UK.") complex products;; RDR and the financial transaction tax. (11/10/11) [http://www.hm-treasury.gov.uk/speech\\_fst\\_111011.htm](http://www.hm-treasury.gov.uk/speech_fst_111011.htm)

ESMA: Speech by Verena Ross: Keynote speech at AIMA conference (22 September 2011)

Topics include: aspects of the AIFM Directive (including third country issues; professional liability insurance, depositary duties and leverage); ESMA's powers; OTC derivatives; EMIR; MiFID review; short selling. (28/09/11) [http://www.esma.europa.eu/data/document/2011\\_320.pdf](http://www.esma.europa.eu/data/document/2011_320.pdf)

HoC: European Scrutiny Committee – 41st Report of Session 2010–12

The report comprises documents considered by the Committee on a wide range of topics. Sections 9 – 11, which all remain "under scrutiny" by the Committee look at the Investor Compensation Scheme Directive, derivatives and residential mortgages. Each item includes a response from HMT on the current state of play with regard to European initiatives on each area. (23/09/11) <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmeuleg/428-xxxvi/428xxxvi.pdf> (NB: over 150 pages long)

### **Offshore havens and tax**

The Investment Trust (Approved Company) (Tax) Regulations 2011/2999

These Regulations contain provisions as to the approval of companies as investment trusts by HMRC for the purposes of s1158 of the Corporation Tax Act 2010. They also contain provisions as to the treatment of specified transactions entered into by investment trusts (s622A of that Act), so that such transactions will always be treated for the purposes of the Corporation Tax Acts as being entered into for the purposes of investment rather than in the course of a trade, and make consequential amendments to the Offshore Funds (Tax) Regulations 2009/3001 (Date in force: 1/1/12) (15/12/11) [http://www.legislation.gov.uk/ukxi/2011/2999/pdfs/ukxi\\_20112999\\_en.pdf](http://www.legislation.gov.uk/ukxi/2011/2999/pdfs/ukxi_20112999_en.pdf)

HMRC: Draft Finance Bill 2012 clauses and other tax updates

HMRC has published a comprehensive list of these with accompanying documentation, including draft regulation and technical notes which can be downloaded via the link below. Among the highlights:

- Foreign Exchange - Anti Avoidance Regulations: the Government has today announced in a Written Ministerial Statement that regulations have been laid to put beyond doubt that companies can only defer foreign exchange gains and losses under the Loan Relationship & Derivative Contract (Disregard and Bringing into Account of Profits and Losses)-Regulations 2004, from the date that they have a foreign currency loan relationship or derivative contract which is matched with shares, ships or aircraft. The Regulations will apply to shares, ships or aircraft which are matched on or after 6 December 2011. The changes block a disclosed avoidance scheme.
- Employer asset-backed pension contributions: Following the announcement at Budget 2011 and consultation over the summer, legislation was published at the Autumn Statement on 29 November 2011 to make changes to the tax rules with immediate effect to ensure no excessive relief can arise for new asset-backed pension contribution arrangements
- Commutation of small personal pension funds: regulations will be introduced to enable individuals to access those savings held in small personal pension schemes i.e. £2,000 or less, by way of lump sum payment (6/12/11) <http://www.hmrc.gov.uk/budget-updates/march2011/draft-tax-finance-bill-2012.htm>

HMT: The abolition of 36 tax reliefs

HMT has published a summary of responses to the May 2011 consultation and also sets out the Government's final decisions which are to fully abolish 28 reliefs (including life assurance premium relief, life assurance premiums paid by employers under E-FRBS) ; partially abolish four reliefs (including deeply discounted securities); and for exceptional reasons not to abolish four reliefs (including compensation for mis-sold pensions and NICs exemption for identifying lost or stolen credit cards). (6/12/11) [http://www.hm-treasury.gov.uk/d/condoc\\_responses\\_tax\\_reliefs.pdf](http://www.hm-treasury.gov.uk/d/condoc_responses_tax_reliefs.pdf) (NB: over 30 pages long)

HMT: GAAR study

HMT has published a report prepared by Graham Aaronson QC which sets out a recommendation to the Government for the introduction to the UK tax system of a narrowly focused general anti-abuse rule (GAAR). With the advice of a committee of tax experts, he has concluded that introducing a narrowly-focused GAAR would: deter abusive tax avoidance schemes; contribute to providing a more level playing field for business; reduce legal uncertainty around tax avoidance schemes; help build trust between taxpayers and HMRC and offer opportunities to simplify the tax system. However, it warns against the introduction of a broad spectrum general anti-avoidance rule. The report recommends that a GAAR should initially apply to the main direct taxes – income tax, capital gains tax, corporation tax, and petroleum revenue tax, as well as national insurance contributions. It sets out in detail how a GAAR could be introduced, and includes an illustrative draft rule. It also includes a summary of the views of representative bodies in the tax sector. (21/11/10) [http://www.hm-treasury.gov.uk/d/gaar\\_final\\_report\\_111111.PDF](http://www.hm-treasury.gov.uk/d/gaar_final_report_111111.PDF) (NB: over 70 pages long)

HMRC: Bank levy - list of foreign deposit protection schemes comparable to FSCS

HMRC has published this non-exhaustive list. (12/11/10) <http://www.hmrc.gov.uk/drafts/schemes-comp-fscs.pdf>

HMRC: UK/Switzerland tax agreement

The tax agreement between the UK and Switzerland was signed on 6 October 2011 and all the relevant documentation is available to download via the following link. From 2013, a new withholding tax of 48% will apply on investment income and 27% will apply on gains applying to those who have not previously told HMRC about these assets. The new charges will not apply if the taxpayer authorises a full disclosure of their affairs to HMRC. (7/10/11) [HM Revenue & Customs: UK Swiss Tax Agreement](#)

HMT: Agreement with Switzerland to secure billions in unpaid tax

In this press release, HMT announces an agreement with Switzerland intended to tackle offshore tax evasion. Accounts held by individual UK taxpayers in Switzerland will be subject to a one-off deduction of between 19% and 34% in 2013, as long as the account was open on 31 December 2010 and is open on 31 May 2013. This deduction will settle income tax, capital gains tax, inheritance tax and VAT liabilities in relation to the funds in the account. The deduction will not be applied if the account holder instructs the bank to disclose details of the account to HMRC. Following that disclosure, HMRC will seek

unpaid taxes with relevant interest and penalties. From 2013, a new withholding tax of 48% on investment income and 27% on gains will ensure the effective future taxation of UK residents with funds in Swiss bank accounts. This will be accompanied by a new information sharing provision between the countries. In addition, Swiss banks will make an up-front payment from Switzerland to Britain of CHF 500m. The agreement will be initialled (i.e. ratified in principle) today and expected to be formally signed in the coming months. It will then go through Parliamentary and administrative procedures before being signed later in the year. The full text will be published at the time of signature. (25/08/11) [Agreement with Switzerland to secure billions in unpaid tax - HM Treasury](#)

HMRC: Update on amendments to the Corporation Tax rules on loan relationships and derivative contracts arising from the introduction of IFRS 9

Further to a 2010 discussion paper, which set out draft regulations amending legislation in Parts 5 and 7 of the Corporation Tax Act 2009 in response to changes to accounting standards arising from IFRS 9, this paper responds to comments made and explains HMRC's approach to amendments to tax rules on loan relationships and derivative contracts, in light of recent announcements from IASB on the implementation of the IFRS 9 project. (13/07/11) <http://www.hmrc.gov.uk/ct/loans-derivatives-rules.pdf>

### **Competition in financial services**

EC: Commission blocks proposed merger between Deutsche Börse and NYSE Euronext

It has been announced that the EC has prohibited, on the basis of the EU Merger Regulation, the proposed merger between Deutsche Börse and NYSE Euronext, as it would have resulted in a quasi-monopoly in the area of European financial derivatives traded globally on exchanges. The EC's investigation showed that new competitors would be unlikely to enter the market successfully enough to pose a credible competitive threat to the merged company. The companies offered, in particular, to sell certain assets and to provide access to their clearinghouse for some categories of new contracts, but overall, the commitments were inadequate to solve the identified competition concerns. (1/02/12) [EUROPA - Press Releases - Mergers: Commission blocks proposed merger between Deutsche Börse and NYSE Euronext](#) [EUROPA - Press Releases - Mergers: Commission prohibits proposed merger between Deutsche Börse AG and NYSE Euronext – frequently asked questions](#) (FAQ) <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/12/52&format=HTML&aged=0&language=EN&guiLanguage=en> (statement by Joaquin Almunia)

EC: State aid: Latvian Mortgage and Land Bank

The EC has granted a temporary clearance of the Latvian support measures needed for the phasing out of commercial activities of the Mortgage and Land Bank whilst opening an in-depth investigation to assess whether aid to the bank is in line with EU state aid rules. (26/01/12) <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/77&format=HTML&aged=0&language=EN&guiLanguage=en>

EC: Speech by Joaquin Almunia: Banking sector and State aid (24 January 2012)

Text of this speech given at a conference in Paris follows, in which he notes: "significant restructuring efforts will have to continue in the future. We can report good progress in some countries – such as Ireland; but in others – such as Greece – the situation is still very complex, given the lack of sustainable solutions to this country's challenges. I can also tell you that we are still looking for adequate solutions for some banks in Portugal, Austria, Germany, Spain, Belgium, France and other countries as well ... As I have said several times in the past, we can no longer afford zombie banks as we struggle to generate growth". (25/01/12) [EUROPA - Press Releases - Joaquín Almunia Vice President of the European Commission responsible for Competition Policy Banking sector and State aid Economist Conferences: "The third Future of Banking Summit" Paris, 24 January 2012](#)

CC: Statutory audit market Inquiry: consultation on CC's selection of subjects for case studies

Further to OFT's reference to CC on the audit market and CC's subsequent issues statement, CC is now setting out how it intends to select subjects for case studies. It is publishing it in order to allow interested parties to contact it directly, or to indicate other persons (or categories) who it should consider as subjects for case studies. Responses are required by 24 January 2012. (19/01/12) [http://www.competition-commission.org.uk/inquiries/ref2011/statutory\\_audit\\_services/pdf/case\\_study\\_consultation.pdf](http://www.competition-commission.org.uk/inquiries/ref2011/statutory_audit_services/pdf/case_study_consultation.pdf)

Competition Commission: Notice of release of Provident Financial plc (formerly Provident Financial Group plc) from the Trading Check Franchise and Financial Services Undertakings

Further to a 1981 report by which the Monopolies and Mergers Commission found that a monopoly situation in favour of Provident Financial Group Limited existed in the supply of trading checks financial services and trading check franchise services in the UK by virtue of s7(1)(a) of the Fair Trading Act 1973 and subsequent undertakings from the firm, CC has now released the firm from its Undertakings. It notes that a change of circumstances identified by OFT which means that the products subject to the Undertakings were no longer offered by Provident and were unlikely to be reintroduced. (19/01/12) [http://www.competition-commission.org.uk/inquiries/ref2011/provident\\_review/pdf/120112\\_trading\\_checks\\_undertakings\\_final\\_decision.pdf](http://www.competition-commission.org.uk/inquiries/ref2011/provident_review/pdf/120112_trading_checks_undertakings_final_decision.pdf)

CC: Notice of revocation of the Credit Cards (Price Discrimination) Order 1990 made pursuant to the Fair Trading Act 1973 Introduction

In 1989, the Monopolies and Mergers Commission published a report of its investigation of the credit cards market (which identified certain adverse effects on competition. It found that monopoly situations existed and that, among other things, the rule commonly used by credit card providers to ensure that merchants could not surcharge customers for making credit card transactions was “undesirable”. MMC recommended that credit card issuers and acquirers should no longer require traders to comply with the so called “no discrimination” rule. CC is now revoking the Order on the grounds that the prohibition on price discrimination in clause 3 of the Credit Cards Order is duplicated by the provision in the PSD (Article 52) and PSR (regulation 54); clause 4(b) of the Credit Cards Order, which permits a limitation on charges, is in conflict with the PSR (regulation 54); and by reason of practicality it is no longer appropriate to retain the remaining provisions of the Credit Cards Order as they have no legal effect. (19/01/12) [http://www.competition-commission.org.uk/inquiries/ref2011/credit\\_cards\\_review/pdf/120112\\_credit\\_cards\\_order\\_final\\_decision.pdf](http://www.competition-commission.org.uk/inquiries/ref2011/credit_cards_review/pdf/120112_credit_cards_order_final_decision.pdf)

EC: Commission temporarily approves guarantees on the refinancing of Dexia and DCL and opens in-depth investigation

The EC has temporarily authorised, under the EU state aid rules, a temporary guarantee on the refinancing of Dexia SA and its subsidiary Dexia Crédit Local for a maximum capital value of €45 billion. This temporary guarantee, extended by Belgium (60.5%), France (36.5%) and Luxembourg (3%), is joint and non-several. It covers the bank refinancing measures with a maturity of a maximum of three years, and was issued until 31 May 2012. The purpose of the guarantee is to enable the bank to draw up a restructuring plan, or – should Dexia SA prove not to be viable – a liquidation plan, which the three Member States undertake to submit to the EC within three months. (21/12/11) [EUROPA - Press Releases - State aid: Commission temporarily approves guarantees on the refinancing of Dexia and DCL and opens in-depth investigation](http://europa.eu/press-release/state-aid-commission-temporarily-approves-guarantees-on-the-refinancing-of-dexia-and-dcl-and-opens-in-depth-investigation)

CC: Audit market inquiry

CC has published an administrative timetable in respect of the inquiry. (20/12/11) [http://www.competition-commission.org.uk/inquiries/ref2011/statutory\\_audit\\_services/pdf/inquiries/ref2011/statutory\\_audit\\_services/pdf/statutory\\_audit\\_administrative\\_timetable.pdf](http://www.competition-commission.org.uk/inquiries/ref2011/statutory_audit_services/pdf/inquiries/ref2011/statutory_audit_services/pdf/statutory_audit_administrative_timetable.pdf)

EC: Commission approves second restructuring plan of Bank of Ireland

The EC has found the second restructuring plan of Bank of Ireland to be in line with EU state aid rules. The bank will substantially deleverage its balance sheet to reduce its dependency on wholesale funding, and will refocus its business model on balanced-risk lending in Ireland and the UK. In order to enhance competition, the bank will also offer certain services to new entrants or to small banks already active in Ireland, to reduce the cost for competitors to develop banking business in Ireland. In addition, the Irish authorities committed to a number of market opening measures in order to enhance competition in the Irish banking market by facilitating the entry and expansion of competitors and by increasing consumer protection in the financial sector. These measures apply to the banking sector in general and not only to Bank of Ireland. This will include for example measures enhancing customer mobility between banks, cost comparison support to facilitate consumer decision making, enhance of electronic banking, promotion of financial inclusion as well as other measures strengthening corporate governance in the financial sector. (20/12/11) [EUROPA - Press Releases - State aid: Commission approves second restructuring plan of Bank of Ireland](http://europa.eu/press-release/state-aid-commission-approves-second-restructuring-plan-of-bank-of-ireland)

EC: Commission approves split-up of WestLB

The EC has approved under EU state aid rules the split-up of Westdeutsche Landesbank (WestLB), which will lead to sale and eventual winding down of its banking activities. According to the restructuring plan, submitted by the German government with the agreement of the shareholders, the so-called Verbundbank activities will be carved out in order to accommodate the Verbundbank. On 30 June 2012, all assets and liabilities not carved out to the Verbundbank or sold will

be transferred to the EAA. After 30 June 2012, WestLB will not engage in new banking business and will be transformed into a servicing platform including a run-down vehicle that holds legacy positions transferred to or hedged by EAA. A reduced number of employees will continue in the asset management and servicing company. (20/12/11) [EUROPA - Press Releases - State aid: Commission approves split-up of WestLB](#)

EC: Commission approves Irish resolution scheme for credit unions

The EC found a resolution scheme for distressed credit unions in Ireland to be in line with EU rules that allow aid to remedy a serious disturbance in the economy of a Member State. The authorisation is granted until 30 June 2012. (20/12/2011) [EUROPA - Press Releases - State aid: Commission approves Irish resolution scheme for credit unions](#)

EC: Commission approves creation of joint venture in Belgium between Volkswagen Financial Services and D'Ieteren

The EC has cleared under the EU Merger Regulation the creation of a joint venture between Volkswagen Financial Services AG and the Belgian company s.a. D'Ieteren n.v. for the provision of financial services related to the sale of Volkswagen group vehicles on the Belgian market, concluding that the creation of the joint venture, to be known as Volkswagen D'Ieteren Finance SA ("VDFin"), would not raise competition concerns because the proposed transaction will not significantly alter the market structures and the merged entity will face competition from other players. (20/12/11) [EUROPA - Press Releases - Mergers: Commission approves creation of joint venture in Belgium between Volkswagen Financial Services and D'Ieteren](#)

EC: Commission market tests Thomson Reuters' commitments on Reuters Instrument Codes

The EC is inviting comments on commitments offered by Thomson Reuters to address concerns that its licensing practices in relation to the Reuters Instrument Codes (RICs) may be in breach of EU antitrust rules. The EC has concerns that Thomson Reuters is abusing its dominant market position in the market for consolidated real-time datafeeds by prohibiting customers from using RICs for retrieving data from alternative providers and mapping them for such a purpose to alternative symbols. Thomson Reuters has offered to allow customers to license RICs for the purpose of switching and to use RICs for retrieving data from other providers against a license fee. If the market test confirms that the proposed commitments remedy the competition concerns, the EC may adopt a decision under Article 9 of the Antitrust Regulation 1/2003, making the commitment legally binding on Thomson Reuters. Interested third parties are invited to comment before 25 January 2012. If, in light of stakeholders' comments, the Commission finds that the commitments are suitable to remedy the competition concerns, it may make them legally binding on Thomson Reuters, without concluding whether EU antitrust law was infringed. (14/12/11) [EUROPA - Press Releases - Antitrust: Commission market tests Thomson Reuters' commitments on Reuters Instrument Codes](#)

EC: Commission opens investigation into aid granted to Austrian bank ÖVAG

The EC has opened under EU state aid rules an in-depth investigation into several support measures that Austria had granted to Österreichische Volksbank (ÖVAG) in 2009. ÖVAG had presented a restructuring plan in autumn 2010, but it became clear in recent months that the bank is unable to implement it. The EC had doubts that the plan would enable the bank to become viable and that it sufficiently addressed the distortion of competition brought about by the state support. The opening of an investigation does not prejudice the outcome of the procedure. (9/12/11) [EUROPA - Press Releases - State aid: Commission opens investigation into aid granted to Austrian bank ÖVAG](#)

EC: Commission approves extension of Danish winding-up scheme for credit institutions

The EC has authorised under EU state aid rules the prolongation of Danish winding-up and compensation schemes for credit institutions until 30 June 2012. It has furthermore authorised two amendments to the scheme facilitating the sale of whole or part of a failing bank. The amendments entail compensation from the State either when an acquirer is ready to take-over the entire failing bank or when the failing bank is being split into sound and distressed parts. The EC found the amended scheme to be compatible with EU rules that allow aid to remedy a serious disturbance in the economy of a Member State. (9/12/11) [EUROPA - Press Releases - State aid: Commission approves extension of Danish winding-up scheme for credit institutions](#)

OFT: Private healthcare market study - report on the market study and proposed decision to make a market investigation reference

OFT is proposing to refer the market for privately funded healthcare services in the UK to CC for a market investigation. This report sets out OFT's reasons for proposing to refer the market and gives interested parties the opportunity to make representations. It notes that, following concerns expressed by consumers as to the level of extra payments sought from some consultants that are not covered under their private medical insurance policies, OFT has "engaged" with FSA. FSA is reported to be in contact with ABI and providers to ensure the latter make clear the possibility of a shortfall payment as a result of the limits which apply to the amount payable under their policies. The aim will be to ensure that PMI providers make the risk of shortfall payments clear to their customers both at the point of sale and at the time a patient makes a claim under a PMI policy. (8/12/11) [http://www.of.gov.uk/shared\\_of/market-studies/OFT1396\\_Private\\_healthcare.pdf](http://www.of.gov.uk/shared_of/market-studies/OFT1396_Private_healthcare.pdf) (NB: over 140 pages long)

CC: Audit market investigation

CC has published an issues statement as part of its market investigation into the supply of statutory audit services to large companies in the UK. This follows the first stage of gathering information, views and evidence and identifies the specific questions and areas the inquiry is examining at this stage. CC is required to report by 20 October 2013 and will shortly publish a timetable setting out a schedule for the various stages of the investigation. Any interested party is invited to respond to the issues statement in writing by 12 January 2012. (8/12/11) [http://www.competition-commission.org.uk/inquiries/ref2011/statutory\\_audit\\_services/pdf/111207\\_issues\\_statement\\_final.pdf](http://www.competition-commission.org.uk/inquiries/ref2011/statutory_audit_services/pdf/111207_issues_statement_final.pdf)

CC: Notice of intention to revoke the Credit Cards (Price Discrimination) Order 1990 made pursuant to the Fair Trading Act 1973

CC has provisionally concluded that the Order should be revoked because: the prohibition on price discrimination in clause 3 of the Order is duplicated by the provision in PSD (Article 52) and PSR (regulation 54); Clause 4(b) of the Order, which permits a limitation on charges, is in conflict with PSR (regulation 54); and by reason of practicality it is no longer appropriate to retain the remaining provisions of the Order as they have no legal effect.. CC invites written representations by 6 January 2012. (8/12/11) [http://www.competition-commission.org.uk/inquiries/ref2011/credit\\_cards\\_review/pdf/111207\\_credit\\_cards\\_order\\_provisional\\_decision.pdf](http://www.competition-commission.org.uk/inquiries/ref2011/credit_cards_review/pdf/111207_credit_cards_order_provisional_decision.pdf)

EC: Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis

This has been published in the Official Journal. (7/12/11) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:356:0007:0010:EN:PDF>

EC: State aid rules to support measures in favour of banks

The EC has updated and prolonged a set of temporary state aid control rules to assess public support to financial institutions during the crisis. The main provisions consist in explaining how to ensure that the State is adequately remunerated if – as is increasingly likely in the future – Member States decide to recapitalise their banks using instruments, such as ordinary shares, for which the remuneration is not fixed in advance. A revised methodology was also agreed concerning the remuneration of guarantees for banks' funding needs – the bulk of the support to date – to ensure the fees that banks pay reflect their intrinsic risk, rather than the risk related to the Member State concerned or the market as a whole. The rules will apply as long as required by market conditions. (1/12/11) <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1488&format=HTML&aged=0&language=EN&guiLanguage=en> EUROPA - Press Releases - State aid: crisis-related aid aside, Scoreboard shows continued trend towards less and better targeted aid (press releases) [http://ec.europa.eu/competition/state\\_aid/legislation/en.pdf](http://ec.europa.eu/competition/state_aid/legislation/en.pdf) (Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis - noted this is published for information purposes only and without prejudice to the official text as published in the Official Journal) <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/858&format=HTML&aged=0&language=EN&guiLanguage=en> (overview of cases currently under formal investigation procedure)

OFT: Anticipated acquisition by Investec plc of Evolution Group plc

OFT has published its decision with regard to the above and concludes that it does not believe that the merger may be expected to result in a substantial lessening of competition within a market or markets in the UK and will therefore not refer

the merger to CC under s33(1) Enterprise Act 2002. (1/12/11)  
[http://www.offt.gov.uk/shared\\_offt/mergers\\_ea02/2011/Investec.pdf](http://www.offt.gov.uk/shared_offt/mergers_ea02/2011/Investec.pdf)

EC: RBS/Banco Santander

The EC has approved under the EU Merger Regulation the proposed acquisition of a number of retail and commercial banking assets of RBS by Banco Santander. After a re-notification following changes to the previously approved operation, the EC concluded that the amended transaction would not raise competition concerns. The examination focused on the impact of the proposed acquisition of the assets, collectively known as Rainbow, on the markets for personal current accounts, mortgages, card-based consumer credit and cash handling services. (30/11/11) [EUROPA - Press Releases - Mergers: Commission approves acquisition of RBS assets by Banco Santander](#)

CC: BATS Global Markets, Inc/Chi-X Europe Limited

CC has cleared the anticipated acquisition by BATS Global Markets, Inc of Chi-X Europe Limited. In its final report, CC confirms its provisional findings and concludes that the acquisition is not likely to result in a substantial lessening of competition in trading services for UK-listed equities. (24/11/11) [http://www.competition-commission.org.uk/press\\_rel/2011/november/pdf/62-11\\_bats\\_chi-x\\_final\\_report\\_news\\_release.pdf](http://www.competition-commission.org.uk/press_rel/2011/november/pdf/62-11_bats_chi-x_final_report_news_release.pdf)

EC: Commission grants temporary approval to Spanish support for Banco de Valencia

The EC has temporarily approved, under EU state aid rules, a capital injection up to €1 billion and a liquidity facility of up to € 2 billion for Banco de Valencia. The funds will be provided by the Spanish Fondo de Reestructuración Ordenada Bancaria (FROB), which was created in 2009 to support the consolidation in the Spanish banking sector and ensure an orderly restructuring of banks. (22/11/11) [EUROPA - Press Releases - State aid: Commission grants temporary approval to Spanish support for Banco de Valencia](#)

OFT: Anticipated acquisition by London Stock Exchange plc of the Transaction Reporting System business of the FSA

OFT has published the full text of its decision with regard to the above. OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the UK and is therefore not referring it to CC. (15/11/11) [http://www.offt.gov.uk/shared\\_offt/mergers\\_ea02/2011/LSE.pdf](http://www.offt.gov.uk/shared_offt/mergers_ea02/2011/LSE.pdf)

EC: Commission makes Standard & Poor's commitments to abolish fees for use of US ISINs binding

The EC has made legally binding commitments offered by Standard & Poor's to abolish the licensing fees that banks pay for the use of ISINs in the EEA. Moreover, for direct users, ISPs and service bureaus (i.e. outsourced data management service providers), S&P committed to distribute the US ISIN record separately from other added value information, on a daily basis for US\$15,000 per year, to be adjusted each year in line with inflation. Clients that currently have a contractual relationship with S&P for the use of US ISINs will be entitled to an early termination of their contracts. However, users will not be allowed to extract the numerically similar CUSIPs, on which US ISINs are based, from the US ISIN data nor to redistribute in bulk US ISINs to companies other than affiliates located within the EEA. ISPs and service bureaus will be allowed to redistribute US ISIN records in bulk format but not to extract CUSIPs from the US ISIN data. The commitments will be implemented within five months from the notification of today's decision to S&P. S&P will communicate the precise implementation date to the EC and submit a yearly report on the implementation. The commitments will apply for five years. (15/11/11) [EUROPA - Press Releases - Antitrust: Commission makes Standard & Poor's commitments to abolish fees for use of US International Securities Identification Numbers binding](#)

EC/ECJ: Judgment in Joined Cases C-106/09 and C-107/09 - EC and Spain v Government of Gibraltar and UK

The EC has welcomed the ECJ ruling on a previous General Court ruling, which had annulled a 2004 EC decision finding that a proposed Gibraltar corporate tax reform amounted to incompatible aid in favour of offshore companies. In 2004, the EC took a decision concluding that the regime would give former offshore companies domiciled in Gibraltar an unfair tax advantage. The EU's General Court annulled the EC's decision in 2008 arguing, inter alia, that the EC had failed to identify what was the system of reference for its assessment. Gibraltar has in the meantime introduced a different tax regime that has been in place since 1 January 2011. (15/11/11)  
<http://europa.eu/rapid/pressReleasesAction.do?reference=CJE/11/120&format=HTML&aged=0&language=EN&guiLanguage=en> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:300:0002:0009:EN:PDF>

EC: EFTA Surveillance Authority Decision No 472/09/COL of 25 November 2009 amending, for the 75th time, the procedural and substantive rules in the field of State aid by introducing a new chapter on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules

This has been published in the Official Journal. (11/11/11) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:292:0012:0025:EN:PDF>

EC: Banco Português de Negócios

The EC has opened an in-depth investigation to assess whether the proposed restructuring of Banco Português de Negócios is in line with EU state aid rules. BPN was nationalised in 2008 and benefitted from several state measures. The opening of an in-depth investigation will. In particular, the EC needs information to be able to assess whether the bank will be a viable entity after its integration with its future purchaser, the aid granted to BPN is limited to the minimum needed for the restructuring, sufficient measures are in place to limit the distortion of competition and the sales process does not entail aid to the buyer.. It is noted that in July 2011, the Portuguese authorities entered into exclusive negotiations with Banco BIC Portugal in view of the sale of the state's shares in the bank. (28/10/11) <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1235&format=HTML&aged=0&language=EN&guiLanguage=en>

EC: Inspections in suspected cartel in the sector of Euro interest rate derivative

The EC has confirmed that, from 18 October 2011, its officials undertook unannounced inspections at the premises of companies active in the sector of financial derivative products linked to the EURIBOR in certain Member States in relation to concerns that the companies concerned may have violated EU antitrust rules that prohibit cartels and restrictive business practices (19/10/11) [EUROPA - Press Releases - Antitrust: Commission confirms inspections in suspected cartel in the sector of Euro interest rate derivatives](#)

EC: Dexia Bank

The EC has temporarily approved, under EU state aid rules, the nationalisation of Belgium's second largest bank Dexia Bank Belgium (DBB) through its acquisition by the Belgian State for €4 billion to be paid to Dexia SA. It is noted that the EC is not able to conclude whether the acquisition by the Belgian State complies with EU state aid rules. Belgium has six months to notify a new restructuring plan for the bank. The EC is opening an in-depth investigation which will assess whether the acquisition price contains state aid, and if so, whether the aid complies with EU rules for restructuring aid. (18/10/11) [EUROPA - Press Releases - State aid: Commission temporarily approves rescue aid for Dexia Bank Belgium; opens in-depth investigation](#)

EC: Quinn Insurance

The EC has approved under EU state aid rules support measures of over €700 million provided by the Irish Insurance Compensation Fund (ICF) for the restructuring of Quinn Insurance Limited, an Irish general insurer which ran into difficulties in 2010 and is currently in administration. As part of the restructuring, the viable Irish general insurance part of QIL has been sold to a joint venture between the US insurer Liberty Mutual and Anglo Irish bank, while the non-viable UK operations will be wound-down. The viability of the healthcare insurance of QIL is not assessed in this decision as its own sales process is still going on. (12/10/11) [EUROPA - Press Releases - State aid: Commission clears aid from Irish Insurance Compensation Fund for restructuring of Quinn Insurance](#)

EC: Statement by Joaquin Almunia re Dexia

This statement notes that any changes to Dexia's restructuring plan and any new aid measures need to be notified and reviewed by the EC. (10/10/11) [EUROPA - Press Releases - Statement by Vice President Almunia on Dexia](#)

EC: Commission temporarily approves rescue aid for Max Bank

The EC has granted temporary approval, under EU state aid rules, to Danish public support to facilitate the sale of part of Max Bank, a small bank active primarily in southern and western parts of Zealand, Denmark. The bank has reported

significant impairment losses on loans and advances. As a result the Danish Financial regulator considered necessary a rescue of the bank. The bank will be split into a good part and a bad part. The good part is sold to an acquiring bank (Sparekassen Sjælland) whilst the 'bad bank' will be wound down which is made possible by the provision of cash or guarantees from the Danish state-owned Financial Stability Corporation and the Guarantee Fund for Depositors and Investors. The EC's final approval of the support measures is conditional on the presentation within six months of a restructuring plan that shows that the integrated entity is viable and that the aid is limited to the strict minimum necessary. The press release notes that the bank's shareholders have lost their investment in the sale's process. (10/10/11) [EUROPA - Press Releases - State aid: Commission temporarily approves rescue aid for Danish Max Bank](#)

EC: The effects of temporary State aid rules adopted in the context of the financial and economic crisis

This EC staff working paper describes how the EC state aid policy responded to the financial and economic crisis, and examines the extent to which the objectives pursued by this policy can be considered as having been met. (10/10/11) [http://ec.europa.eu/competition/publications/reports/working\\_paper\\_en.pdf](http://ec.europa.eu/competition/publications/reports/working_paper_en.pdf) (NB: over 100 pages long)

OFT: Notice of intention to modify proposed binding commitments on a data exchange tool used

OFT has opened a consultation on an amendment to commitments offered by a number of motor insurance companies designed to address competition law concerns about the potential exchange of pricing data between competitors. An OFT investigation raised concerns that, by subscribing to an analysis tool, seven insurance companies were able to access not only the pricing information they themselves provided to brokers through the software, but also pricing information supplied by competing insurers. The analysis tool was provided to insurers by an IT company, using information supplied to it by a second IT company. Following its investigation, OFT announced in January 2011 that it was minded to accept commitments as a means of addressing its concerns, and opened a consultation on draft commitments. As a result of the consultation, the OFT is now minded to accept an amendment to the draft commitments which will reduce the age of the data that can be exchanged via the analysis tool from 36 months to six months. However, OFT remains of the view that all other requirements of the commitments offered by the insurer parties are necessary to remove the OFT's competition concerns, including the requirements that pricing information must (i) be anonymised and aggregated across at least five insurers; and (ii) not be supplied to insurers until prices are already 'live' in policies sold by brokers. OFT is now consulting on the proposed amendment to the commitments, formal acceptance of which would result in the OFT ending its investigation. The consultation on the amended commitments will close on 28 October 2011. (30/09/11) [http://www.of.gov.uk/shared\\_of/consultations/oft1377.pdf](http://www.of.gov.uk/shared_of/consultations/oft1377.pdf)

EC: Temporary state aid for Spanish savings banks

The EC has granted temporary approval, under EU state aid rules, to the recapitalisations of NCG Banco, Catalunya Banc and Unnim Banc by the Fondo de Reestructuración Ordenada Bancaria ("FROB"). All three banks were created this year as part of the restructuring of the Spanish savings banks system. Final approval of the recapitalisations is conditional upon the submission of a restructuring plan that ensures that the banks will be viable in the long-term, that shareholders adequately share the burden of restructuring and that distortions of competitions are limited. (30/09/11) [EUROPA - Press Releases - State aid: Commission temporarily approves rescue aid for Spanish savings banks NCG Banco, Catalunya Banc and Unnim Banc](#)

EC: CRD II

Spain and The Netherlands have been asked to notify to the EC within the next two months the measures they are taking to implement CRD II. Spain needs to complete implementation by adopting certain technical measures required by the Directive. The Netherlands has yet to adopt measures to implement the Directives, which include a legislative proposal and a ministerial decision, and is only due to do so at the end of 2011, more than a year after the implementation deadline. The request takes the form of a reasoned opinion. If the national authorities do not notify the necessary implementing measures within two months, the EC may refer the Member States concerned to the ECJ and may request it to impose financial penalties. (29/09/11) [EUROPA - Press Releases - Financial services: Commission requests Spain and The Netherlands to implement capital rules](#)

EC: Distance marketing

The EC has decided to refer Italy to the ECJ for inadequate transposition of Directive 2002/65/EC concerning the distance marketing of consumer financial services into its national law, noting that it would appear that in Italy a consumer cannot withdraw from a car insurance contract if during these 14 days an accident covered by the insurance has taken place which is contrary to the Directive. (29/09/11) [EUROPA - Press Releases - Distance marketing of financial services: Commission refers Italy to the Court of Justice](#)

EC: European Payments Council

The EC has opened an antitrust investigation into e-payments undertaken by the EPC. It intends to investigate whether the e-payments standardisation process will not unduly restrict competition, for example through the exclusion of new entrants and payment providers who are not linked to a bank. Such restrictions, if established, could harm merchants and consumers in the market of e-payments. It is noted that the EC has received a complaint which will form part of this investigation.

(26/09/11)

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1076&format=HTML&aged=0&language=EN&guiLanguage=en>

EC: Speech by Joaquín Almunia: Presentation of Commission decision on HSH Nordbank and state of play on state aid rules to banks (20 September 2011)

In this speech, Joaquín Almunia notes: “the worsening of the sovereign debt crisis, its impact on a fragile banking system and the continuing tensions in funding markets, all point to the possible need for further recapitalisation of banks on top of the nine that failed the stress tests earlier this year. In such circumstances, I will propose to the College, later this year, to extend the crisis State aid rules put in place in 2008/2009 to enable governments to provide –if needed- public support to their banks beyond 2011. ... I would have preferred to go back to normal rules sooner and this was indeed my intention until the summer. But the situation we are facing these days calls for an extension of the existing State aid crisis regime. This means that next year the rescue and restructuring of banks will continue to be assessed on the basis of the present rules.”

(20/09/11) [EUROPA - Press Releases - Joaquín Almunia Vice President of the European Commission responsible for Competition Policy Presentation of Commission decision on HSH Nordbank and State of Play on State Aid rules to banks Press Conference, Brussels, Berlaymont, 20](#)

EC: Overview of decisions and on-going in-depth investigations in the context of the financial crisis

The EC has published an updated table in respect of the above. (20/09/11) [EUROPA - Press Releases - State aid: Overview of decisions and on-going in-depth investigations in the context of the financial crisis](#)

EC: Commission approves restructuring of HSH Nordbank, subject to conditions

The EC has approved under EU state aid rules restructuring aid for German bank HSH Nordbank consisting of a capital injection of €3bn and a risk shield of €10bn provided by the regions of Hamburg and Schleswig-Holstein. The support also includes liquidity guarantees amounting to €17bn. Clearance relies on the commitment to reduce the bank's balance sheet by 61%, including the wind down of its aircraft financing division and the reduction of its shipping financing activities. The approval of the restructuring plan is conditional on the payment of a higher remuneration for the €10bn risk shield provided by the two regional authorities in particular in the form of the payment of a lump sum of €500m in shares. (20/09/11)

[EUROPA - Press Releases - State aid: Commission approves restructuring of HSH Nordbank, subject to conditions](#)

EC: Speech by Joaquín Almunia: State aid control as a resolution tool in the EU (15 September 2011)

Text of the following, given at the Eurofi Financial Forum, follows. He discusses the relations between State aid rules for bank restructuring and the future crisis-management regulation. He notes: “we simply cannot afford to saddle the economy with more zombie banks ... to plan for the post-crisis environment we have been preparing a specific framework dedicated to the financial sector: the new guidelines for the rescuing and restructuring of financial institutions in difficulty. Until the summer, my intention was to introduce the new regime at the beginning of next year, assuming that the markets would have normalised by then. However, considering current market conditions, it would not be safe to introduce the new rules too soon. The situation we have been facing over the last few weeks calls for an extension of the existing State aid crisis regime for financial institutions beyond 2011. This is what I will propose to the College of Commissioners ... next year, the rescue and restructuring of banks will continue to be assessed on the basis of the present rules”. He also reports on concerns over the proposed NYSE/Euronext and Deutsche Börse merger; the anti-trust investigations in respect of Thompson Reuters, Standard and Poor's, ICE Clear and Markit. (15/09/11) [EUROPA - Press Releases - Joaquín Almunia Vice President of the European Commission responsible for Competition Policy State aid control as a resolution tool in the EU The Eurofi Financial Forum 2011 Wroclaw, 15 September 2011](#)

EC: Commission approves acquisition of Fortis Commercial Finance Holding by BNP Paribas

The EC has cleared under the EU Merger Regulation the proposed acquisition by BNP Paribas of Fortis Commercial Finance Holding., having concluded that the transaction would not significantly impede effective competition in the EEA or

any substantial part of it. The proposed acquisition of FCF was also found to be in compliance with the undertakings assumed by BNP Paribas in the 2009 decision concerning the financial support granted by Belgium and Luxembourg to Fortis Bank. (6/09/11) [EUROPA - Press Releases - Mergers: Commission approves acquisition of Fortis Commercial Finance Holding by BNP Paribas](#)

OFT: Capita / NorthgateArinso

OFT has published an invitation to comment in respect of the anticipated acquisition by Capita Group plc of NorthgateArinso's pensions administration business. Responses are required by 7 September 2011. (24/08/11) [Capita / NorthgateArinso - The Office of Fair Trading](#)

OECD: Bank competition and financial stability

This report examines the interplay between banking competition and financial stability, taking into account the experiences of the recent global crisis and the policy response to date. Specific topics include: retail banking; competition in derivative markets and bank competition and government guarantees. (15/08/11) <http://www.oecd.org/dataoecd/14/49/48501035.pdf> (NB: 80 pages long)

OMX: Nasdaq OMX Stockholm AB application

FSA has forwarded OFT an application from the above exchange for Recognised Overseas Clearing House status under ss288 and 292 FSMA. OFT is currently conducting its competition assessment of the application and is inviting comments from parties, to be received by 21 September 2011. (11/08/11) [NASDAQ OMX Stockholm AB - The Office of Fair Trading](#)

EC: Commission opens in-depth investigation into proposed merger between Deutsche Börse and NYSE Euronext

The EC has opened an in-depth investigation under the EU Merger Regulation into the planned merger between Deutsche Börse AG and NYSE Euronext Inc., noting that its initial market investigation indicated competition concerns in a number of areas, in particular in the field of derivatives trading and clearing. The Commission now has 90 working days, until 13 December 2011, to take a final decision on whether the transaction would reduce effective competition in the EEA. (5/08/11) <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/948&format=HTML&aged=0&language=EN&guiLanguage=en>

EC: Commission approves acquisition of Belgian insurer Nateus by Baloise of Switzerland

The EC has cleared under the EU Merger Regulation the acquisition of insurance company Nateus of Belgium by rival Baloise of Switzerland, concluding that the transaction would not significantly impede effective competition in the EEA or any substantial part of it. Nateus is a subsidiary of the Belgian insurance group Ethias, which had committed to sell Nateus as part of a state aid agreement. (4/08/11) [EUROPA - Press Releases - Mergers: Commission approves acquisition of Belgian insurer Nateus by Baloise of Switzerland](#)

EC: Commission opens in-depth investigation into state aid to Royal Mail

The EC has opened an in-depth investigation to ascertain whether UK proposals to restructure the Royal Mail by relieving it of its pension deficit' and strengthening its balance sheet are in line with EU state aid rules, noting that at present it has doubts that Royal Mail's restructuring plan foresees adequate measures to mitigate any distortions of competition brought about by the state intervention and to ensure a sufficient own contribution to the cost of restructuring. The item notes that the EC is currently also examining measures in favour of the Belgian post incumbent bpost and the German postal incumbent Deutsche Post and that the scope of the investigation on the latter has recently been extended to cover the financing of certain pension costs. (1/08/11) [EUROPA - Press Releases - State Aid: Commission opens in-depth investigation into state aid to UK postal operator Royal Mail](#)

CC: Anticipated acquisition by BATS Global Markets, Inc of Chi-X Europe Limited

CC has published the texts of interim undertakings in respect of the above inquiry from the parties concerned. (28/07/11) <http://www.competition->

[commission.org.uk/inquiries/ref2011/bats\\_chi\\_trading/pdf/chi\\_x\\_interim\\_undertakings\\_and\\_cc\\_acceptance.pdf](http://www.competition-commission.org.uk/inquiries/ref2011/bats_chi_trading/pdf/chi_x_interim_undertakings_and_cc_acceptance.pdf)  
[http://www.competition-commission.org.uk/inquiries/ref2011/bats\\_chi\\_trading/pdf/pdf/chi\\_x\\_interim\\_undertakings\\_and\\_cc\\_acceptance.pdf](http://www.competition-commission.org.uk/inquiries/ref2011/bats_chi_trading/pdf/pdf/chi_x_interim_undertakings_and_cc_acceptance.pdf)

EC: Commission temporarily approves rescue aid for merged entity Educational Building Society/Allied Irish Banks

The EC has granted temporary approval, under EU state aid rules, to a recapitalisation worth up to €13.1bn of AIB/EBS, an entity resulting from the merger of Allied Irish banks plc and Educational Building Society, by the Irish authorities. It will take a final decision on aid to AIB/EBS based on the new restructuring plan that Ireland committed to submit in due course to take account of this additional state support. (15/07/11) [EUROPA - Press Releases - State aid: Commission temporarily approves rescue aid for merged entity Educational Building Society/Allied Irish Banks](#)

CC: Annual Report & Accounts 2010/11

CC has published the above, which includes an overview of its work over the past year, including the PPI market investigation. (14/07/11) [http://www.competition-commission.org.uk/rep\\_pub/annual\\_rev\\_archive/pdf/hc\\_1098.pdf](http://www.competition-commission.org.uk/rep_pub/annual_rev_archive/pdf/hc_1098.pdf) (NB: over 80 pages long)

TSC: Competition and choice in retail banking:

Further to TSC's 9th report, published in April 2011, it has now published the Government Response. It highlights the response to TSC's recommendation that FCA should have competition as a primary objective and asks that the Joint Committee that will scrutinise the draft Financial Services Bill to examine the case for competition being a primary objective for FCA. (12/07/11) <http://www.parliament.uk/documents/commons-committees/treasury/CRC%20HC%201408%20-%207th%20Special%20Report%20-%20Govt%20Response%20-%20Competition.pdf>

CC: BATS Trading Limited/Chi-X Europe Limited

Further to OFT's referral of the proposed acquisition, CC has now published an issues statement. (12/07/11) [http://www.competition-commission.org.uk/inquiries/ref2011/bats\\_chi\\_trading/pdf/inquiries/ref2011/bats\\_chi\\_trading/pdf/bats\\_chi-x\\_issues\\_statement.pdf](http://www.competition-commission.org.uk/inquiries/ref2011/bats_chi_trading/pdf/inquiries/ref2011/bats_chi_trading/pdf/bats_chi-x_issues_statement.pdf)

EC: Commission temporarily approves rescue aid for Bank of Ireland

The EC has granted temporary approval, under EU state aid rules, to the recapitalisation of Bank of Ireland by the Irish authorities of up to €5.35 billion. The Irish State will underwrite the issue of new rights by Bol for up to €4.35 billion. Another €1 billion will be provided as contingent capital. Final approval of the new recapitalisation measures is conditional upon the submission of a new restructuring plan, which is expected by the end of July 2011. (11/07/11) <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/854&format=HTML&aged=0&language=EN&language=en>

OFT: Anticipated acquisition by BATS Trading Limited of Chi-X Europe Limited

Further to OFT's announcement that it was referring the above to CC for further investigation, it has now published its full decision. (8/07/11) [http://www.of.gov.uk/shared\\_of/mergers\\_ea02/2011/BATS.pdf](http://www.of.gov.uk/shared_of/mergers_ea02/2011/BATS.pdf)

## **Business as usual**

Law Societies Joint Brussels Office: Company law and financial services (January 2012)

This details the current status of various relevant Directives and European-level proposals. (31/01/12) [http://international.lawsociety.org.uk/files/CompanyLawReform\\_Tracker\\_January2012.pdf](http://international.lawsociety.org.uk/files/CompanyLawReform_Tracker_January2012.pdf) (NB: over 40 pages long)

#### FSA: Appointment

FSA has announced the appointment Will Samuel to the role of investment banking senior advisor. The former Lazard & Co VC will take up his position on 30 January 2012. The item includes a very short biog. (30/01/12) [FSA announces a new investment banking senior advisor](#)

#### FSA: Policy Development Update 143

The latest edition of FSA's publication, formerly known as Handbook Development Update, giving information about recently issued publications and an updated timetable for forthcoming publications. (30/01/12) <http://www.fsa.gov.uk/static/pubs/newsletters/pdu-newsletter-jan12.pdf>

#### FSA: Handbook Notice 116/Instruments

This Handbook Notice reports on Instruments passed at two FSA board meetings. On 21 December 2011 the FSA Board made changes to the Handbook in two instruments which:

- introduce a protected cells regime that will enhance investor protection and market confidence in UK (OEICs) (Collective Investment Schemes Sourcebook (ICVC Sub-funds) Instrument 2011/76 - [http://media.fsahandbook.info/Legislation/2011/2011\\_76.pdf](http://media.fsahandbook.info/Legislation/2011/2011_76.pdf)); and
- implement HMT's Recognised Auction Platform Regulations 2011 on carbon emissions and give effect to the EU Commission Auction Regulation 2010 (Recognised Auction Platforms Instrument 2011/77 - [http://media.fsahandbook.info/Legislation/2011/2011\\_77.pdf](http://media.fsahandbook.info/Legislation/2011/2011_77.pdf)).

On 19 January 2012 the FSA Board made changes to the Handbook in seven instruments which:

- add two further accredited bodies to GLOSS (Training and Competence Sourcebook (Accredited Bodies Amendment) Instrument 2012/1 - [http://media.fsahandbook.info/Legislation/2012/2012\\_1.pdf](http://media.fsahandbook.info/Legislation/2012/2012_1.pdf));
- broaden the scope of who qualifies to act as a settlement decision maker in enforcement cases (Glossary Amendment (Definition of Settlement Decision Makers) Instrument 2012/2 - [http://media.fsahandbook.info/Legislation/2012/2012\\_2.pdf](http://media.fsahandbook.info/Legislation/2012/2012_2.pdf));
- introduce guidance for insurance business transfers where the application fee and restructuring special project fee could both be levied and introduce an administration fee for the late or non-submission of the complaints reports required in our complaints handling rules (Fees (Miscellaneous Amendments) (No 3) Instrument 2012/3 - [http://media.fsahandbook.info/Legislation/2012/2012\\_3.pdf](http://media.fsahandbook.info/Legislation/2012/2012_3.pdf));
- amend the liquidity rules and guidance to allow inclusion of deposits from charities and change the treatment of collateral pre-positioned with a central bank (Liquidity Standards (Miscellaneous Amendments No 4) Instrument 2012/4 - [http://media.fsahandbook.info/Legislation/2012/2012\\_4.pdf](http://media.fsahandbook.info/Legislation/2012/2012_4.pdf));
- amend rules on liens in custody agreements relating to omnibus accounts and overseas jurisdictions (Client Assets Sourcebook (Liens Amendment) Instrument 2012/5 - [http://media.fsahandbook.info/Legislation/2012/2012\\_5.pdf](http://media.fsahandbook.info/Legislation/2012/2012_5.pdf));
- clarify that credit union deposits are protected under FSCS up to the £85,000 limit (Compensation Sourcebook (Deposit Claims by Credit Unions) Instrument 2012/6- [http://media.fsahandbook.info/Legislation/2012/2012\\_6.pdf](http://media.fsahandbook.info/Legislation/2012/2012_6.pdf)), and
- establish guidance that issuers are not required to verify shareholder notifications made to it under DTR as not misleading, false or deceptive (Disclosure Rules and Transparency Rules Sourcebook (Amendment No 5) Instrument 2012/7 - [http://media.fsahandbook.info/Legislation/2012/2012\\_7.pdf](http://media.fsahandbook.info/Legislation/2012/2012_7.pdf) (20/01/11)

<http://www.fsa.gov.uk/pubs/handbook/hb-notice116.pdf> (NB: over 70 pages long)

#### FSA: Board minutes

FSA has now published the board minutes for the meeting held on 22 September 2011. Topics include: chairman's report (noting, but not naming, the likely agenda topics for the first FCA sub-group, but naming members of that sub-group Adair Turner (in the Chair), Karin Forseke, Mick McAteer, Carolyn Fairbairn, Brian Pomeroy, Amanda Davidson, with James Strachan, Martin Wheatley, Hector Sants and Margaret Cole also in attendance); RBS report; independent panels' reports and MMR. (19/01/12) <http://www.fsa.gov.uk/pubs/board-minutes/sep11.pdf>

#### FSB: Resignation

The Vice-Chairman of the Financial Stability Board, Philipp Hildebrand, has resigned as Chairman of the board of the Swiss National Bank, and consequently from his role as VC of FSB. (10/01/12) [http://www.financialstabilityboard.org/press/pr\\_090112.pdf](http://www.financialstabilityboard.org/press/pr_090112.pdf)

FSA: FSCS chairman

FSA has appointed Lawrence Churchill as new chairman, with effect from 1 April 2012. (9/01/12) [FSA appoints new Board Chairman for Financial Services Compensation Scheme](#)

Complaints Commissioner: GE-L01328

The complainant alleged that information on FSA's website as to cheque clearing times and related information was ambiguous and misleading. The CC upheld the complaint, commented FSA's responses to points raised by the complainant had been "disappointing", recommended that FSA apologise to the complainant and pay him an ex gratia amount of £50 for the manner in which the complaint was dealt with. (6/01/12) <http://www.fsc.gov.uk/documents/final/GE-L01328.pdf>

Complaints Commissioner: GE-L01334

The complainant believed the terms under which he had entered into an agreement with an unnamed firm were unfair and contacted FSA's Unfair Contracts Terms Team, which responded that it did not believe that the terms contravened the regulations. The CC did not uphold the complaint, but said he "shared [the complainant's] irritation" with the way the complaint had been handled, but said that FSA had acted within its jurisdiction. (6/0/12) <http://www.fsc.gov.uk/documents/final/GE-L01334.pdf>

Complaints Commissioner: GE-L01336

The complaint was in respect of a penalty for a late GABRIEL return. The CC did not uphold the complaint. (6/01/12) <http://www.fsc.gov.uk/documents/final/GE-L01336.pdf>

FSA: Policy Development Update 142

The latest edition of FSA's publication, formerly known as Handbook Development Update, giving information about recently issued publications and an updated timetable for forthcoming publications. (16/12/11) [http://www.fsa.gov.uk/pubs/newsletters/pdu\\_newsletter\\_dec11.pdf](http://www.fsa.gov.uk/pubs/newsletters/pdu_newsletter_dec11.pdf)

FSA: Analysis of activity in the energy markets 2011

For the tenth consecutive year, FSA has written to UK energy market brokers to ask for information about volumes and values in the gas, power, coal and emissions traded markets they operate in to gather information on favoured routes to market and market size to help assess firms' potential market impacts. The attached analysis covers the 12 months of trading to 31 July 2011. FSA surveyed the same participants as last year (12 months of trading to 31 July 2010) and, because the analysis is focused on the UK energy broker market, it has not attempted to include any exchange-traded figures. It is emphasised that the analysis is based on data provided by respondents, which we collated without verification. (14/12/11) [http://www.fsa.gov.uk/pubs/other/energy\\_2011.pdf](http://www.fsa.gov.uk/pubs/other/energy_2011.pdf)

FSA: Appointment

FSA has appointed John Spence as a non-executive director to Board of the Money Advice Service with effect from 2 January 2012. He is currently Finance Chair for Business in the Community and is a former chairman of BBA's retail banking committee and has held a variety of executive positions at Lloyds TSB. (13/12/11) [FSA appoints John Spence as non-executive director of the Money Advice Service](#)

FSA: Handbook Notice/Instruments

FSA has published its latest Handbook Notice, which includes details of Instruments passed between September and December 2011 and not previously included in a Handbook Notice: These changes provide:

- that trail commission can continue for pre-RDR products and makes changes to the adviser charging rules on ongoing charges (Retail Distribution Review (Adviser Charging No 3) Instrument 2011/54 - [http://media.fshandbook.info/Legislation/2011/2011\\_54.pdf](http://media.fshandbook.info/Legislation/2011/2011_54.pdf)); i

- introduce minor changes to the product disclosure rules, as part of the RDR for packaged products (Retail Distribution Review (Key Features Illustrations) Instrument 2011/55 - [http://media.fsahandbook.info/Legislation/2011/2011\\_55.pdf](http://media.fsahandbook.info/Legislation/2011/2011_55.pdf));
- require firms to report additional data in RMAR and on complaints as part of the RDR (Retail Distribution Review (Retail Mediation Activities Return and Complaints Data) Instrument 2011/58 - [http://media.fsahandbook.info/Legislation/2011/2011\\_58.pdf](http://media.fsahandbook.info/Legislation/2011/2011_58.pdf)).
- make minor administrative corrections to the Handbook, none of which represents any change in FSA policy (Handbook Administration (No 24) Instrument 2011/67 - [http://media.fsahandbook.info/Legislation/2011/2011\\_67.pdf](http://media.fsahandbook.info/Legislation/2011/2011_67.pdf));
- ensure a firm has arrangements in place to contribute to and develop, if required, adequate recovery and resolution arrangements for financial conglomerates (Senior Management Arrangements, Systems And Controls (Financial Conglomerates) (Amendment) Instrument 2011/68 - [http://media.fsahandbook.info/Legislation/2011/2011\\_68.pdf](http://media.fsahandbook.info/Legislation/2011/2011_68.pdf));
- introduce three qualifications and amend qualifications to the appropriate qualifications list, which advisers have to meet as part of the RDR (Training And Competence Sourcebook (Qualifications Amendments No 3) Instrument 2011/69 / [http://media.fsahandbook.info/Legislation/2011/2011\\_69.pdf](http://media.fsahandbook.info/Legislation/2011/2011_69.pdf));
- implement FSA's rules in key areas where designated professional bodies do not apply rules to the financial services activity of their authorised professional firms (Professional Firms (Amendment) Instrument 2011/70 - [http://media.fsahandbook.info/Legislation/2011/2011\\_70.pdf](http://media.fsahandbook.info/Legislation/2011/2011_70.pdf));
- introduce the Credit Unions New sourcebook (CREDS) due to the Legislative Reform Order 2011 (Credit Unions New Sourcebook Instrument 2011/71 - [http://media.fsahandbook.info/Legislation/2011/2011\\_71.pdf](http://media.fsahandbook.info/Legislation/2011/2011_71.pdf) - NB: 60 pages long)
- make consequential amendments to the Handbook as a result of CREDS) (Credit Unions New Sourcebook (Consequential Amendments) Instrument 2011/72 - [http://media.fsahandbook.info/Legislation/2011/2011\\_72.pdf](http://media.fsahandbook.info/Legislation/2011/2011_72.pdf) - NB over 40 pages long);
- make certain amendments to RCB to reflect (in part) amendments made to the Regulated Covered Bond Regulations 2008 (Regulated Covered Bond Sourcebook (Amendment No 2) Instrument 2011/73 - [http://media.fsahandbook.info/Legislation/2011/2011\\_73.pdf](http://media.fsahandbook.info/Legislation/2011/2011_73.pdf) - NB: 70 pages long); and
- make consequential amendments to the Handbook as a result of new regulatory guide to assist firms in tackling financial crime (Financial Crime Guide Instrument 2011 - [http://media.fsahandbook.info/Legislation/2011/2011\\_75.pdf](http://media.fsahandbook.info/Legislation/2011/2011_75.pdf) (NB: over 140 pages long).

In addition, FSA made a change outside the Handbook to PERG to amend the 'by-way-of-business' test in relation to entering into a regulated sale and rent back agreement (Perimeter Guidance (Amendment No 3) Instrument 2011/74 - [http://media.fsahandbook.info/Legislation/2011/2011\\_74.pdf](http://media.fsahandbook.info/Legislation/2011/2011_74.pdf)). (9/12/11)  
[http://www.fsa.gov.uk/pubs/handbook/hb\\_notice115.pdf](http://www.fsa.gov.uk/pubs/handbook/hb_notice115.pdf)

HMT: Budget 2012

HMT has announced the date of next year's Budget - Wednesday 21 March. (7/12/11) <http://www.hm-treasury.gov.uk/>

FSA: CP11/27\*: Quarterly consultation (No. 31)

In this CP, FSA proposes amendments:

- to clarify the liquidity rules by confirming the policy intention of BIPRU rules, to change the realisation requirements for non-liquid asset buffer assets to operational testing through the use of the central bank facilities and to provide details of management actions on the occurrence of certain events (Chapter 2);
- to implement the DWP changes that will abolish the option to contract out of the state second pension (S2P) (Chapter 3);
- to the form and scope of directors' certificates and reports by auditors for employer's liability registers (ELRs) and qualifying tracing office databases, and amendments to the content of ELRs for co-insurance, excess insurance, claims made and employer's reference numbers (Chapter 4);
- to the information disclosure requirements in ICOBS as a result of the implementation of Solvency II (Chapter 5);
- to guidance in the Code of Market Conduct within MAR 1.4, where the disclosure of inside information by brokers during deals, in which stock owned by persons discharging managerial responsibilities being sold (Chapter 6);
- to improve the clarity of the reporting requirements and to facilitate better data quality (Chapter 7);
- to allow a non-UCITS retail scheme that is subject to investment powers and borrowing limits to act as a feeder fund and to incorporate consequential changes to the rules applying to UCITS feeder funds (Chapter 8); and
- to the qualification standards that advisers have to meet as part of RDR(Chapter 9).

Responses should be received by 6 February 2012. (6/12/11)  
[http://www.fsa.gov.uk/pubs/cp/cp11\\_27.pdf](http://www.fsa.gov.uk/pubs/cp/cp11_27.pdf) (NB: over 150 pages long)

FSA: FSCS appointment

FSA has appointed Paul Stockton as a non-exec director to FSCS board with effect from 1 December 2011. He is currently Group FD at Rathbone Brothers plc (2/12/11) [FSA appoints Paul Stockton as non-executive director of the FSCS](#)

FSA: MoU with the Republic of Korea Financial Services Commission/Securities and Futures Commission/Financial Supervisory Service

FSA has published the text of the above, dated 28 November 2011, which sets out a formal basis for cooperation among the parties, including the exchange of information and investigative assistance. It supersedes an earlier MoU from May 2007.(2/12/11) [http://www.fsa.gov.uk/pubs/mou/fsc\\_fsa.pdf](http://www.fsa.gov.uk/pubs/mou/fsc_fsa.pdf)

HMT: Autumn Statement

Items affecting financial services mentioned in the Chancellor's statement:

- *Financial sector regulation*: it is noted that "subject to Parliamentary timetabling, the legislation will be introduced early in 2012" and that "the Government is considering a variety of options for implementing the recommendations [of the Independent Commission on Banking]. The Government will respond before the end of the year with more detail".
- *Bank levy*: it is noted that the Government intends that the Bank Levy should raise at least £2½ billion each year, more than the net revenue from the one-off Bank Payroll Tax. To offset the forecast shortfall in receipts for 2011 and future years, the rate of the levy will increase to 0.088% from 1 January 2012.
- *Mortgages*: the Government is to introduce a new build indemnity by which home buyers will be able to purchase new build houses and flats with a 5% deposit. House builders and the Government will help provide security for the loan.
- *Employer asset backed pension contributions*: legislation has been introduced under Finance Bill 2012 to ensure that the amount of tax relief given to employers using ABC arrangements reflects accurately the total amount of payments the employer makes to the pension scheme directly or through a special purpose vehicle (<http://www.hmrc.gov.uk/budget-updates/budget-updates/march2011/autumn-statement-nov2011.htm>)
- *Infrastructure projects and pension funds*: the Government has signed a MoU with two groups of UK pension funds (including NAPF, PPF and a separate group representing pension plans and infrastructure fund managers) to support additional investment in UK infrastructure. The Government is also working with ABI to set up an Insurers' Infrastructure Investment Forum ([http://cdn.hm-treasury.gov.uk/national\\_infrastructure\\_plan291111.pdf](http://cdn.hm-treasury.gov.uk/national_infrastructure_plan291111.pdf) - NB: over 170 pages long)
- *National Loan Guarantee Scheme*: up to £20 billion of guarantees for bank funding will be made available over two years (correspondence between the Chancellor and the Governor of BoE follows - [http://www.hm-treasury.gov.uk/d/chx\\_letter\\_291111.pdf](http://www.hm-treasury.gov.uk/d/chx_letter_291111.pdf) <http://www.bankofengland.co.uk/monetarypolicy/pdf/govletter111129.pdf>)
- *UK covered bonds*: the Government intends to amend the regulations for UK covered bonds to provide greater transparency for investors and help banks use covered bonds to raise funding. (29/11/11) [http://cdn.hm-treasury.gov.uk/autumn\\_statement.pdf](http://cdn.hm-treasury.gov.uk/autumn_statement.pdf) (NB: over 90 pages long)

FSA: Policy Development Update 141

The latest edition of FSA's publication, formerly known as Handbook Development Update, giving information about recently issued publications and an updated timetable for forthcoming publications. (28/11/11) [http://www.fsa.gov.uk/pubs/newsletters/pdu\\_newsletter\\_nov11.pdf](http://www.fsa.gov.uk/pubs/newsletters/pdu_newsletter_nov11.pdf)

Complaints Commissioner: GE-L01326

The complaint was in respect of a penalty for a late GABRIEL return. The CC did not uphold the complaint. (28/11/11) <http://www.fsc.gov.uk/documents/final/GE-L01326.pdf>

Complaints Commissioner: GE-L01330

The complaint was in respect of a penalty for a late GABRIEL return. The CC did not uphold the complaint. (28/11/11) <http://www.fsc.gov.uk/documents/final/GE-L01330.pdf>

FSA/FOS: Appointment

FSA has announced the appointment of Sir Nicholas Montagu KCB as the new chairman of FOS. He is currently the chairman of the Aviva UK Life With-Profits Committee, a director of the Pension Corporation and is a former chairman of the Board of Inland Revenue. (23/11/11) <http://www.fsa.gov.uk/pages/Library/Communication/PR/2011/100.shtml> <http://www.financial-ombudsman.org.uk/news/updates/new-chairman-update-nov2011.html>

#### FSA: Board minutes

FSA has now published the board minutes for the meeting held on 28 July 2011. Topics include: Listing Authority Advisory Committee annual report (raising concerns over UKLA's place in the new regulatory regime and over FCA objectives); FOS annual report; FSCS annual report; Money Advice Service annual report; CC annual report; CEO/MD reports; Basel III; Mortgage Market Review; UCIS regulation; platforms; FSA performance report. (17/11/11)  
<http://www.fsa.gov.uk/pubs/board-minutes/july11.pdf>

#### FSA: Complaints Commissioner report GE-L01312

The complainant had lost over £36,000 on an investment with Firm A in 2007 and alleged that FSA had known about the firm's actions since 2005 and had not taken any action against it. The complainant sought recompense from FSA over his loss. CC did not uphold the report, noting that FSA had tried to work with the firm in order to ensure that investors received the appropriate level of protection, but that Firm A appeared to have failed to follow the guidance provided by its lawyers, a QC and FSA and that FSA had no alternative other than to seek closure of the firm. (8/11/11)  
<http://www.fscs.gov.uk/documents/final/GE-L01312.pdf>

#### FSA: Milestones

FSA has published a revised version of its 2011/2012 milestones. (7/11/11)  
[http://www.fsa.gov.uk/pubs/plan/fsa\\_milestones11\\_12.pdf](http://www.fsa.gov.uk/pubs/plan/fsa_milestones11_12.pdf)

#### The Freedom of Information (Designation as Public Authorities) Order 2011/2598

This Order designates a number of bodies, including FOS, as public authorities. The functions with respect to which the designation takes effect are listed in column 2 of the Schedule to this SI. (Date in force; 1/11/11) (7/11/11)  
[http://www.legislation.gov.uk/ukxi/2011/2598/pdfs/ukxi\\_20112598\\_en.pdf](http://www.legislation.gov.uk/ukxi/2011/2598/pdfs/ukxi_20112598_en.pdf)

#### FSA: Handbook Notice 114

On 2 November 2011, FSA's Board made changes to the Handbook in five instruments which:

- propose to limit the scope of the voiding rules to large firms that are of systemic importance and have higher risk business models (Senior Management Arrangements, Systems and Controls (Remuneration Code) (No 4) Instrument 2011/62 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_62.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_62.pdf));
- require firms to inform FSA one month in advance of issuing certain types of capital instruments which a firm intends to count towards its capital resource (Capital Instruments (Notification) Instrument 2011/63 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_63.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_63.pdf));
- defer the introduction of two memorandum items to the RMAR balance sheet until review is complete (Supervision Manual (Retail Mediation Activities Return) (Amendment No 4) Instrument 2011/64 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_64.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_64.pdf));
- ensure that all eligible consumers will be able to have their complaint considered by FOS (Dispute Resolution: Complaints (Amendment No 4) Instrument 2011/65, FOS 2011/6 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_65.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_65.pdf)); and
- implement the third instalment of the amendments to CRD 3, which includes changes to the trading book and securitisation rules, plus other technical amendments (Capital Requirements Directive (Handbook Amendments No 4) Instrument 2011/66 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_66.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_66.pdf) - NB: over 70 pages long). (4/11/11)

[http://www.fsa.gov.uk/pubs/handbook/hb\\_notice114.pdf](http://www.fsa.gov.uk/pubs/handbook/hb_notice114.pdf) (NB: over 60 pages long)

#### FSA: Appointment

FSA has appointed Zitah McMillan as its new communications director, joining from the Department for Work and Pensions, where she has been Acting Director of Communications. She will take up her new role in January 2012 and will report to Hector Sants. (4/11/11) [FSA appoints new communications director](#)

FSA: Performance against service standards

FSA has published details of performance results against service standards and customer satisfaction for the periods 1 April to 30 September 2011 and 1 January to 30 June 2011 respectively, during which a total of 48 service standards were in place. No transactions were recorded for two standards and of the 46 standards where transactions took place, FSA met 30 (65.2%); and did not meet 16 (34.8%). (31/10/11) [Latest results](#)

FSA: Policy Development Update 140

The latest edition of FSA's publication, formerly known as Handbook Development Update, giving information about recently issued publications and an updated timetable for forthcoming publications. (28/10/11)  
[http://www.fsa.gov.uk/pubs/newsletters/pdu\\_newsletter\\_oct11.pdf](http://www.fsa.gov.uk/pubs/newsletters/pdu_newsletter_oct11.pdf)

Law Societies Joint Brussels Office: Company law and financial services (October 2010)

This details the current status of various relevant Directives and European-level proposals. (19/10/11)  
[http://international.lawsociety.org.uk/files/CompanyLawReformUpdate\\_October2011.pdf](http://international.lawsociety.org.uk/files/CompanyLawReformUpdate_October2011.pdf) (NB: over 40 pages long)

FSA: Complaints Commissioner report GE-L01289

The complainant had called FSA with regard to advice on redress offered by Firm A in respect of a with profits bond encashed three years earlier. The FSA employee said he believed that redress was not being offered as a result of FSA pressure. However, the firm was subsequently fined and redress offered. The complainant believed he was misled by FSA and had lost the opportunity to receive redress. He also argued that his complaint had been treated "illogically" by FSA and there had been an infringement of his legal rights under the Human Rights Act. He was looking for an ex gratia payment – otherwise he would seek a judicial review. CC did not uphold the complaint, but went into some detail on FSA's obligations on disclosure of enforcement matters and advised the complainant on FSA's potential powers to publish Warning Notices as advocated in the Financial Services Bill, suggesting that he approach his MP about his case and the way in which current legislation impacted on the matter. (13/10/11) <http://www.fsc.gov.uk/documents/final/GE-L01289.pdf>

The Child Trust Funds (Amendment No. 3) Regulations 2011/2447

These Regulations amend the Child Trust Funds Regulations 2004 (S.I. 2004/1450). They bring forward the expiry date of CTF vouchers from 12 months to 60 days for vouchers issued on or after 1 January 2012; increase the annual subscription limit from £1,200 to £3,600 with effect from 1 November 2011, and define what is meant by the term "unique identifier" in relation to the requirement for local authorities to make returns of information about looked after children (Date in force: 1/11/11) [http://www.legislation.gov.uk/uksi/2011/2447/pdfs/ukxi\\_20112447\\_en.pdf](http://www.legislation.gov.uk/uksi/2011/2447/pdfs/ukxi_20112447_en.pdf)

FSA: Complaints Commissioner report GE-L01305

The complaint concerned an application for authorisation (which had been refused and the complainant had been issued with a Warning Notice) and how it had been handled by FSA. It is noted that the complaint had been escalated to the RTC, which found for FSA, and the complainant had apparently decided not to go to the RDC on financial grounds. The complaint was not upheld. (6/10/11) <http://www.fsc.gov.uk/documents/final/GE-L01305.pdf>

FSA: Policy Development Update 139

The latest edition of FSA's publication, formerly known as Handbook Development Update, giving information about recently issued publications and an updated timetable for forthcoming publications. (30/09/11)  
[http://www.fsa.gov.uk/pubs/newsletters/pdu\\_newsletter\\_sep11.pdf](http://www.fsa.gov.uk/pubs/newsletters/pdu_newsletter_sep11.pdf)

FSA: Handbook Notice 113

On 22 September 2011, the FSA Board made changes to the Handbook in the following Instruments which:  
– make minor administrative corrections to the Handbook, none of which represents any change in FSA policy (Handbook Administration (No 23) Instrument 2011/48 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_48.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_48.pdf));

- clarify that common platform firms conducting investment services and activities from a branch in another Member State are subject to the Host State's requirements for those investment services and activities for the purpose of article 13(2) of MiFID and the MiFID implementing Directive (Senior Management Arrangements, Systems and Controls (Amendment No. 3) Instrument 2011/49 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_49.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_49.pdf));
- amend the list of appropriate qualifications for advisers in TC and provide a list of accredited bodies which issue annual statements of professional standing to advisers (Training and Competence Sourcebook (Accredited Bodies and Qualifications Amendments No 2) Instrument 2011/50 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_50.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_50.pdf));
- remove the use of non-EEA rules in calculating group capital requirements (Prudential Sourcebook for Banks, Building Societies and Investment Firms (Group Risk Consolidation) Instrument 2011/51 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_51.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_51.pdf)) – see also PS11/11;
- amend the liquidity rules and guidance, including a widening of the qualifying criteria for low frequency liquidity reporting and an extension to the transitional period for former mismatch firms (Liquidity Standards (Miscellaneous Amendments No 3) Instrument 2011/52 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_52.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_52.pdf));
- amend the guidance on the promotion of products or services which are described as “guaranteed”, “protected” or “secure” (Financial Promotions Guidance (Amendment) Instrument 2011/53 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_53.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_53.pdf));
- amend provisions relating to custody liens and title transfer collateral arrangements in CASS (Client Assets Sourcebook (Collateral Transfer and Liens Amendment) Instrument 2011/56 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_56.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_56.pdf));
- make a minor rule amendment relating to reporting, and centralise the collection of written reports to FSA (Supervision Manual (Amendment No 18) Instrument 2011/57 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_57.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_57.pdf));
- amend various data items and guidance in order to clarify existing reporting requirements (Integrated Regulatory Reporting (Amendment No 12) Instrument 2011/59 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_59.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_59.pdf)); and
- enable corporate trustees of occupational pension schemes to claim on FSCS should a life insurer fail (Compensation Sourcebook (Occupational Pension Scheme Trustees) Instrument 2011/61 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_61.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_61.pdf)).

It is noted that Instruments 2011/54, 55 and 58 have also been made by the Board but will be published at a later date and will be summarised in the November Handbook Notice. (26/09/11)

[http://www.fsa.gov.uk/pubs/handbook/hb\\_notice113.pdf](http://www.fsa.gov.uk/pubs/handbook/hb_notice113.pdf) (NB: over 60 pages long)

#### FSA: Board minutes

FSA has now published the board minutes for the meeting held on 23 June 2011. Topics include: update on RiskCo meeting; RDC chairman's report (his concerns “relating to the number of cases seen by the RDC featuring the promotion of unregulated collective investment schemes (UCIS), the work being done within the FSA to review the way in which these specialist products were able to be sold, and whether there were ways to exercise greater regulatory control, through permissions or qualifications requirements” are noted); CEO and MD reports; Mortgage Market Review; the small firm three year enhanced strategy and review of high impact firms. (23/09/11) <http://www.fsa.gov.uk/pubs/board-minutes/june11.pdf>

#### The Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) (Amendment) Order 2011/2304

This Order amends the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 (S.I. 2001/1177) which defines, in relation to certain specified regulated activities, the circumstances in which a person carrying on one of those activities is, or is not to be, regarded as carrying on that activity by way of business for the purposes of s22 FSMA. Article 2 provides that a person carrying on the activity of entering into a regulated sale and rent back agreement will be regarded as doing so by way of business unless the parties to the agreement are family members. The Order provides that the amendment will cease to have effect at the end of 2014. HMT is required to review the operation and effect of the amendment and to publish a report before the end of 2012. Following the review, HMT will decide whether the amendment should be allowed to expire (as provided for by this Order), be revoked early, or be maintained in force with or without amendments. A further instrument would be needed to maintain the amendment in force with or without amendments or to revoke the amendment early. (Date in force: 16/09/11) (20/09/11) [http://www.legislation.gov.uk/ukxi/2011/2304/pdfs/ukxi\\_20112304\\_en.pdf](http://www.legislation.gov.uk/ukxi/2011/2304/pdfs/ukxi_20112304_en.pdf).

#### HMT: Post-legislative assessment of the Financial Services (Land Transactions) Act 2005:

HMT has published this memorandum to TSC. It concludes that, although the benefits of FSA regulation of home reversion plans and home purchase plans are hard to quantify, to date no serious issues have come to light. It is considered that reforms made by the Act have been effective without imposing significant costs. (16/09/11) <http://www.official-documents.gov.uk/document/cm81/8156/8156.pdf>

#### HMT/BoE/FSA: Market-wide exercise 2011 update

It has been announced that 89 organisations are to take part in this year's exercise, which will take place on 22 November. It will test dependencies on telecommunications and internet, and focus on managing the return to business as usual after a major disruption. It will also examine the impact of transport disruption against the backdrop of the Olympics. It is noted that, for the first time, elements of financial stress will be included in the exercise. (16/09/11) [UK Financial Sector Continuity](#)

#### FSA: Complaints Commissioner report GE-L01273

The complaint was in relation to paying FSCS levies (the complainant's firm was not authorised to provide advice to clients who would be eligible to receive FSCS compensation). The complainant also said that he was erroneously told to reduce the number of approved persons at the firm in order to reduce FSCS levies and had not been told to apply for an exemption. The complaint was not upheld, but CC said that FSA's "level of efficiency" at one point in the communications "does leave something to be desired". (16/09/11) <http://www.fscs.gov.uk/documents/final/GE-L01273.pdf>

#### The National Savings Bank (Amendment) (No. 2) Regulations 2011/2288

These Regulations amend the National Savings Bank Regulations 1972 S.I. 1972/764 (the "1972 Regulations") and the National Savings Bank (Investment Deposits) (Limits) Order 1977 S.I. 1977/1210 (the "1977 Order"). These Regulations modernise the National Savings and Investments ("NS&I") Investment Account and are intended to make it a more cost-effective account to administer. (Dates in force: 28/11/2011 and 21/05/2012) (15/09/11) [http://www.legislation.gov.uk/ukSI/2011/2288/pdfs/ukSI\\_20112288\\_en.pdf](http://www.legislation.gov.uk/ukSI/2011/2288/pdfs/ukSI_20112288_en.pdf)

#### The Equality Act 2010 (Specific Duties) Regulations 2011/2260

These Regulations impose duties on public authorities listed in the Schedules to these Regulations. Regulation 2 requires public authorities to publish information to demonstrate their compliance with the duty imposed by s149(1) of the Act. Paragraph (2) requires the public authorities listed in Schedule 1 (including FSA and BoE) to publish this information not later than 31 January 2012 and subsequently at intervals of not greater than one year beginning with the date of last publication. (Date in force: 10/09/11 (14/09/11)) [http://www.legislation.gov.uk/ukSI/2011/2260/pdfs/ukSI\\_20112260\\_en.pdf](http://www.legislation.gov.uk/ukSI/2011/2260/pdfs/ukSI_20112260_en.pdf)

#### ICO: FSA – FOIA Decision Notice

The complainant made a request for information under FOIA on 21 January 2011 and FSA failed to answer the request until 4 July 2011. The complainant complained about the delays that he had experienced. ICO found that FSA breached s10(1) FOIA because it failed to provide an appropriate response within 20 working days. However, he requires no steps to be taken because the response provided the information that was requested. (13/09/11) [http://www.ico.gov.uk/~media/documents/decisionnotices/2011/fs\\_50383973.ashx](http://www.ico.gov.uk/~media/documents/decisionnotices/2011/fs_50383973.ashx)

#### The Financial Services and Markets Act 2000 (Exemption) (Amendment No. 2) Order 2011 (Draft)

This Order amends the Financial Services and Markets Act 2000 (Exemption) Order 2001 (S.I. 2001/1201) ("the Exemption Order"). Article 2 revokes paragraph 24A in Part 2 of the Schedule to the Exemption Order, which created an exemption from the general prohibition in respect of accepting deposits for credit unions within the meaning of the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205), so that from 31 March 2012 Northern Irish credit unions will need to be authorised by FSA under Part 4 FSMA and the regulatory system established by that Act will apply to them. Article 3 requires HMT to review the effect of this Order and publish a report by 31 March 2017 and within every five years after that. Following a review it will fall to HMT to reconsider the regulatory status of Northern Ireland credit unions. A further instrument would be needed to amend the Exemption Order and make consequential and transitional provisions. (8/09/11) <http://www.legislation.gov.uk/ukdsi/2011/9780111515037/data.pdf>

#### The Freedom of Information (Designation as Public Authorities) Order 2011 (Draft)

This Order designates several bodies, including FOS, as public authorities for the purposes of FOIA in relation to their functions that appear to the Secretary of State to be of a public nature. (8/09/11) <http://www.legislation.gov.uk/ukdsi/2011/9780111514962/data.pdf>

CP11/18\*: Quarterly consultation (No. 30)

The CP invites comments on miscellaneous amendments to the Handbook. It proposes amendments:

- to require financial conglomerates to include recovery and resolution arrangements and plans within their risk management process (Chapter 2);
- to review examination standards for 'undertaking pensions transfer activity' and 'managing investments', and amend the appropriate qualifications (Chapter 3);
- to the definition of a small and medium-sized enterprise deposit, change the treatment of collateral held with a central bank in excess of requirements and clarify reporting guidance (Chapter 4);
- to broaden the scope of who qualifies as a 'settlement decision maker' (Chapter 5);
- to clarify the rules on funds of alternative investment funds, winding-up rules for investment companies with variable capital, issue new guidance to aid authorised fund managers in determining the eligibility of interests in syndicated loans as investments for authorised funds, and incorporate consequential changes arising from UCITS IV (Chapter 6);
- to clarify the relationship between investor notifications to an issuer regarding voting rights and the issuer's duty to ensure that information provided to a regulatory information services is not misleading (Chapter 7);
- to establish that sale and rent back agreements will be a regulated activity, even where they are not the relevant firm's or individual's main source of business (Chapter 8); and
- to ensure that voiding rules are limited to firms of systemic importance and with higher risk business models (Chapter 9).

Deadlines for comments are as follows: Chapter 9 – 6 October 2011; Chapter 2 – 20 October 2011; question 3.8 of Chapter 3 – 6 October 2011 and rest of Chapter 3 – 6 December 2011; comments on all other chapters – 6 November 2011. (7/09/11) [http://www.fsa.gov.uk/pubs/cp/cp11\\_18.pdf](http://www.fsa.gov.uk/pubs/cp/cp11_18.pdf) (NB: over 100 pages long)

The Stamp Duty and Stamp Duty Reserve Tax (Cassa Di Compensazione E Garanzia S.p.A.) Regulations 2011/2205

These regulations remove multiple charges to stamp duty and stamp duty reserve tax from transactions made on a regulated market, an MTF or OTC and which are transferred through certain recognised clearing houses - in these regulations the recognised clearing house is Cassa di Compensazione.e Garanzia S.p.A. (Date in force: 3/10/11) (7/09/11) [http://www.legislation.gov.uk/ukxi/2011/2205/pdfs/ukxi\\_20112205\\_en.pdf](http://www.legislation.gov.uk/ukxi/2011/2205/pdfs/ukxi_20112205_en.pdf)

Complaints Commissioner: GE-L01256

The complainant was unhappy with the length of time FSA took to reauthorise him following the closure of the firm he had previously worked for and had consequently suffered financial loss. The complaint was not upheld, but CC "strongly urged" FSA to "bear in mind at all times the need to avoid delay wherever possible given that what is involved is the applicant's livelihood". (31/08/11) <http://www.fsc.gov.uk/documents/final/GE-L01256.pdf>

Complaints Commissioner: GE-L01298

The complaint was in respect of a penalty for a late GABRIEL return. CC did not uphold the complaint, but expressed concern over the wording of an FSA reminder email, which he suggested could be misconstrued by recipients and suggested it be changed to highlight that firms must check that they have submitted all their GABRIEL reports and ensure that none are outstanding. FSA is reported to have made this change. (31/08/11) <http://www.fsc.gov.uk/documents/final/GE-L01298.pdf>

Complaints Commissioner: GE-L01294

The complaint was in respect of a penalty for a late GABRIEL return. The CC did not uphold the complaint. (31/08/11) <http://www.fsc.gov.uk/documents/final/GE-L01294.pdf>

FSA: Policy Development Update 138

The latest edition of FSA's publication, formerly known as Handbook Development Update, giving information about recently issued publications and an updated timetable for forthcoming publications. (26/08/11) [http://www.fsa.gov.uk/pubs/newsletters/pdu\\_newsletter\\_aug11.pdf](http://www.fsa.gov.uk/pubs/newsletters/pdu_newsletter_aug11.pdf)

Complaints Commissioner: GE-L01247

The complaint was in respect of the conduct of two FSA TCF assessors during a visit for which the complainant is a compliance consultant, saying that they only looked at certain areas of the firm and acted in an “unprofessional” manner. He also looked for an acceptance that a valid TCF assessment had not taken place and that the resulting report should note that there was no evidence that the firm had provided unsuitable advice. CC upheld the complaint in part, saying that the deterioration in the relationship between the firm and the assessors during the visit “should not have been allowed to happen”. (26/08/11) <http://www.fsc.gov.uk/documents/final/GE-L01247.pdf>

FSA: Board minutes

FSA has now published the board minutes for the meeting held on 26 May 2011. Topics include: proposing a strict liability regime for directors of failed banks (“the Board concluded that at present strict liability was not desirable”); FSA’s annual report & accounts; platforms consultation and making rules and guidance (with particular reference to the proposed changes to the dispute resolution procedures –“the Board noted that the Executive believed there was enough evidence to show that the two stage process was detrimental to consumers”). (19/08/11) <http://www.fsa.gov.uk/pubs/board-minutes/may11.pdf>

FSA: Milestones

FSA has published a revised version of its 2011/2012 milestones. (16/08/11) [http://www.fsa.gov.uk/pubs/plan/fsa\\_milestones11\\_12.pdf](http://www.fsa.gov.uk/pubs/plan/fsa_milestones11_12.pdf)

MoJ: Proposed EU Regulation creating a European Account Preservation Order to facilitate cross-border debt recovery in civil and commercial matters - How should the UK approach the Commission’s proposal?

This consultation is aimed at individuals and organisations with an interest in the creation of a European Account Preservation Order which will freeze bank accounts in EU cross-border civil and commercial cases. Responses are required by 14 September 2011. (6/08/11) <http://www.justice.gov.uk/downloads/consultations/eu-cross-border-debt-recovery-consultation.pdf> (NB: 40 pages long)

FSA: Handbook Notice 112

On 28 July 2011, the FSA Board made changes to the Handbook in the following Instruments which:

- clarify the definition of ‘Holloway sickness policy’ by setting out the crucial features of a policy offered or effected under the Holloway system (Glossary Amendment (Definition of Holloway Sickness Policy) Instrument 2011/40 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_40.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_40.pdf));
- restrict the FSCS discretion to raise exit levies from a firm to the levy year when the firm exits the scheme (Financial Services Compensation Scheme (Payment of Levies) (Amendment) Instrument 2011/41 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_41.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_41.pdf));
- make rule amendments to establish the prudential treatment for the UK Business Growth Fund and other venture capital investment vehicles invested in by firms (Venture Capital Investments Instrument 2011/42 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_42.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_42.pdf));
- implement the CEBS guidelines on managing operational risks in market-related activities (Capital Requirements Directive (Handbook Amendments No 3) Instrument 2011/43 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_43.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_43.pdf));
- defer new capital and connected reporting rules for personal investment firms under RDR until 31 December 2013 (Capital Resources Requirements for Personal Investment Firms (Amendment) Instrument 2011/44 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_44.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_44.pdf));
- make it clear to firms which liquidity reporting items they are required to submit and to make the existing guidance, in relation to completing these, clearer (Liquidity Reporting (Miscellaneous Amendments) Instrument 2011/45 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_45.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_45.pdf));
- introduce a new power to facilitate redress where mass consumer detriment has (or may) occur and to act as a deterrent to widespread mis-selling (Consumer Redress Schemes Instrument 2011/46 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_46.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_46.pdf)); and
- introduce new obligations to ensure that platform services used to buy and manage investments after 31 December 2012 are fully aligned with standards required by the RDR, that investments can be re-registered from one nominee to another, and that investors investing through platforms or other nominees receive the same information as direct investors (Retail Distribution Review (Platforms) Instrument 2011/47 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_47.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_47.pdf)).

The Board also approved the making, by the FOS Board, of part of one of those instruments (FOS 2011/5; FSA 2011/46), relating to consumer redress schemes. In addition, the Handbook Notice reports that on 1 July 2011 the FSA Board made changes to the Handbook in the UCITS IV Directive Instrument (UCITS IV Directive Instrument 2011/39 - [http://fsahandbook.info/FSA/handbook/LI/2011/2011\\_39.pdf](http://fsahandbook.info/FSA/handbook/LI/2011/2011_39.pdf) - NB: over 250 pages long) which implements changes to the

UCITS Directive and incorporates the Key Investor Information Regulation which is directly applicable in the UK. (2/08/11) [http://www.fsa.gov.uk/pubs/handbook/hb\\_notice112.pdf](http://www.fsa.gov.uk/pubs/handbook/hb_notice112.pdf) (NB: over 70 pages long)

BIS/BERR: The one-in, one-out methodology

This short report is intended to provide officials with methodological guidance to operate the new "One-in, One-out" (OIOO) Rule. It is based on a framework agreed by the Reducing Regulation sub-Committee. Matters that are out of scope include financial systemic risk measures which deal with issues falling under the OECD (2004) definition of financial systemic risk, but it is noted that the OIOO Rule does not apply to all other areas of financial services regulation, including financial crime regulation (such as anti-money-laundering) and conduct of business regulation. (2/08/11) <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/o/11-671-one-in-one-out-methodology>

The Money Laundering (Amendment) Regulations 2011/1781

These Regulations amend the Money Laundering Regulations 2007 (S.I. 2007/2157) so that a junior ISA is included as a product qualifying for simplified due diligence. The effect of the amendment is that a person required to comply with the Regulations need not apply full customer due diligence measures in relation to a transaction concerning a junior ISA in certain circumstances. (Date in force: 1/11/11) (1/08/11) <http://www.legislation.gov.uk/ukxi/2011/1781/made/data.pdf>

FSA: Complaints Commissioner reports GE-L01038/GE-L01054/GE-L01237/GE-L01242/GE-L01265

The complainants alleged that FSA had failed to take appropriate action to ensure that open positions held by a firm under investigation by the regulator with a US FX trading platform were closed. CC provided very detailed responses, but did not uphold the complaints. (29/07/11) <http://www.fsc.gov.uk/documents/final/GE-L01038.pdf> <http://www.fsc.gov.uk/documents/final/GE-L01054.pdf> <http://www.fsc.gov.uk/documents/final/GE-L01236.pdf> <http://www.fsc.gov.uk/documents/final/GE-L01242.pdf> <http://www.fsc.gov.uk/documents/final/GE-L01265.pdf>

FSA: Policy Development Update 137

The latest edition of FSA's publication, formerly known as Handbook Development Update, giving information about recently issued publications and an updated timetable for forthcoming publications. (29/07/11) [http://www.fsa.gov.uk/pubs/newsletters/pdu\\_newsletter\\_july11.pdf](http://www.fsa.gov.uk/pubs/newsletters/pdu_newsletter_july11.pdf)

The Statutory Auditors and Third Country Auditors (Amendment) Regulations 2011/1856

This instrument amends Part 42 of, and Schedule 10 to, the Companies Act 2006 and the provisions on the registration of third country auditors in Part 5 of the Statutory Auditors and Third Country Auditors Regulations 2007 to implement Commission Decision 2011/30/EU of 19 January 2011 on the equivalence of certain third country public oversight, quality assurance, investigation and penalty systems for auditors and audit entities and a transitional period for audit activities of certain third country auditors and audit entities in the EU. (Date in force: various) (27/07/11) [http://www.legislation.gov.uk/ukxi/2011/1856/pdfs/ukxi\\_20111856\\_en.pdf](http://www.legislation.gov.uk/ukxi/2011/1856/pdfs/ukxi_20111856_en.pdf)

Consumer Protection (Postal Marketing) Bill

A Bill to make provision relating to the regulation of postal marketing; and for connected purposes. (25/07/11) <http://www.publications.parliament.uk/pa/bills/cbill/2010-2012/0134/2012134.pdf>

FSA: Annual Public Meeting – Q&As

FSA has published notes of Q&As made on the day and in writing. Topics include: FSA's stance on reattribution; Money Advice Service; authorisation; annuities; building societies governance. (21/07/11) [Annual Public Meeting 2011: Questions submitted in advance](http://www.fsa.gov.uk/pubs/annualpublicmeeting2011/questionsandanswers.pdf) [Annual Public Meeting 2011: Questions and answers](http://www.fsa.gov.uk/pubs/annualpublicmeeting2011/questionsandanswers.pdf)

ICO: FSA – FOIA Decision Notice

The complainant made a freedom of information request to FSA to request copies of three reports it had produced in relation to FSA's split capitals investigation. FSA refused the request by relying on the exemptions; s21 (Information accessible by other means); s40 (Personal information), s43 (Commercial interests) and s 44 (Prohibitions on disclosure) FOIA. ICO has considered the complaint and has found that all of the requested information is exempt from disclosure under s44 FOIA by virtue of the statutory prohibition in s348 FSMA. (15/07/11)

[http://www.ico.gov.uk/~media/documents/decisionnotices/2011/fs\\_50377785.ashx](http://www.ico.gov.uk/~media/documents/decisionnotices/2011/fs_50377785.ashx)

BoE: Annual Report 2011

The report describes ongoing preparations for the new regulatory regime and Sir David Lees notes that "Court will shortly approve a detailed budget for the transition of the Bank's new responsibilities from the FSA to the PRA and ... the programme ... is probably the largest and certainly the costliest project that the Bank has undertaken over the past ten years". (12/07/11) <http://www.bankofengland.co.uk/publications/annualreport/2011/2011full.pdf> (NB: 100 pages long)

OFT: Annual Report & Accounts 2010-11

OFT has published the above, together with a "positive impact" report which presents the estimates of impact of OFT's work on consumers over the previous three financial years (2008/09 to 2010/11). (12/07/11) <http://www.oft.gov.uk/news-and-updates/press/2011/80-11> [http://www.oft.gov.uk/shared\\_of/annual\\_report/2011/annual-report-10-11.pdf](http://www.oft.gov.uk/shared_of/annual_report/2011/annual-report-10-11.pdf) (main report - NB: over 90 pages long) [http://www.oft.gov.uk/shared\\_of/reports/Evaluating-OFTs-work/OFT1354.pdf](http://www.oft.gov.uk/shared_of/reports/Evaluating-OFTs-work/OFT1354.pdf) (positive impacts report) <http://www.oft.gov.uk/about-the-of/annual-plan-and-report/annual-report/> (statistical annexures are available via this link)

FSA: Complaints Commissioner report GE-L01233

The complainant had contacted FSA seeking reassurance that a certain money transfer firm was reputable before he entered into business with it and subsequently lost £20,000. The complainant also alleged that FSA had handled his complaint poorly. CC did not uphold the complaint, but noted the confusion over consumer protection where PSD firms are involved and set out a number of recommendations for FSA's Consumer Contact Centre to adhere to. FSA has not as yet published a response to this report. (7/07/11) <http://www.fsc.gov.uk/documents/final/GE-L01233.pdf>

FSA: Complaints Commissioner report GE-L01234

The complaint was in relation to a cancellation of Part IV permission form which FSA did not receive from the complainant who was then subsequently liable for annual fees. CC did not uphold the complaint. (7/07/11) <http://www.fsc.gov.uk/documents/final/GE-L01234.pdf>

FSA: Complaints Commissioner report GE-L01268

The complaint was in relation to a late RMA-J form for which the complainant had been asked to pay a penalty fee. The complaint was not upheld. (7/07/11) <http://www.fsc.gov.uk/documents/final/GE-L01268.pdf>

The Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) (Amendment) Order 2011 (Draft)

This Order amends the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 (S.I. 2001/1177) which defines, in relation to certain specified regulated activities, the circumstances in which a person carrying on one of those activities is, or is not to be, regarded as carrying on that activity by way of business for the purposes of s22 FSMA. Article 2 provides that a person carrying on the activity of entering into a regulated sale and rent back agreement will be regarded as doing so by way of business unless the parties to the agreement are family members. The Order provides that the amendment will cease to have effect at the end of 2014. HMT is required to review the operation and effect of the amendment and to publish a report before the end of 2012. Following the review, HMT will decide whether the amendment should be allowed to expire (as provided for by this Order), be revoked early, or be maintained in force with or without amendments. A further instrument would be needed to maintain the amendment in force with or without amendments or to revoke the amendment early. (7/07/11)

[http://www.legislation.gov.uk/ukdsi/2011/9780111513088/pdfs/ukdsi\\_9780111513088\\_en.pdf](http://www.legislation.gov.uk/ukdsi/2011/9780111513088/pdfs/ukdsi_9780111513088_en.pdf)

The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2011/1626

This Order amends the Financial Services and Markets Act 2000 (Exemption) Order 2001 S.I. 2001/1201 (the “Exemption Order”) to ensure that home finance related activities by Northern Ireland housing associations are not subject to regulation by FSA. (Date in force: 26/07/11) (6/07/11)

[http://www.legislation.gov.uk/ukxi/2011/1626/pdfs/ukxi\\_20111626\\_en.pdf](http://www.legislation.gov.uk/ukxi/2011/1626/pdfs/ukxi_20111626_en.pdf)

FSA/SRA: MoU

FSA has published a copy of an MoU between the parties which sets out a framework for their working relationship in respect of members carrying on exempt regulated activities and authorised professional firms. It was signed by FSA on 13 June 2011. (4/07/11) [http://www.fsa.gov.uk/pubs/mou/fsa\\_sra.pdf](http://www.fsa.gov.uk/pubs/mou/fsa_sra.pdf)

FSA: Zen System and TRS

FSA has published a letter sent to TRS users with regard to the implementation of its Zen surveillance and monitoring system, which replaces Sabre II, from 8 August 2011. All regulated firms will need to be compliant no later than 13 November 2011, but TRS firms can start to report Aii transactions at any point after 8 August. (1/07/11) [http://www.fsa.gov.uk/pubs/other/trs\\_june11.pdf](http://www.fsa.gov.uk/pubs/other/trs_june11.pdf)

**Archived material on the sector is available via the following links:** [January-June 2009](#), [July-December 2009](#), [January-December 2010](#) and [January-July 2011](#).

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